

given, its payment was secured by the pledge of sixty-four shares of the stock of the bank, owned by and standing in the name of James McCormick, the intestate of the defendant, John E. McCormick. The last note became due on the 25th of May ensuing its date, but remained unpaid until the 25th of June following, when it was paid to the bank by McCormick, to whom the stock pledged for its security was released, and the note surrendered. The original bill, which was filed on 7th July, 1834, charged that the Hammonds, being embarrassed in their circumstances, and insolvent at the maturity of the first of the notes, were unable to pay it, and that their condition of insolvency continuing until the note given in renewal matured, they paid it with a view, and under an expectation, of being or becoming insolvent debtors, and with intent to give to the bank an undue and improper preference over their other creditors. When the answer of the bank came in, on the 3d of November, 1834, disclosing the connection of McCormick with the transaction, an amended bill was filed, with the leave of the court, in which, among other things, it was charged, that if he, McCormick, did make the payment, he was furnished with the means for that purpose, by the Hammonds, at a period when they had a view or were under an expectation of being, or becoming, insolvent debtors, and with intent thereby to give to said McCormick an undue and improper preference. The answer of McCormick, the intestate, which was filed 14th July, 1835, admitted that the money with which he paid the bank, and relieved his stock, which had been hypothecated as security, was placed in his hands by the Hammonds, for that purpose, two days before he made the payment, and that he had no knowledge of the business or engagements of the Hammonds, or who were their creditors at the time of their application for the benefit of the insolvent laws.

It appeared by an agreement signed by counsel, that John L. Hammond petitioned for the benefit of the insolvent laws, on the 15th of September, 1832, and was finally discharged on the 2d of February, 1833; and that William L. Hammond petitioned on the 15th of October, 1832, and was discharged on